

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,  
PENNSYLVANIA

- - -

COMMONWEALTH OF PENNSYLVANIA	)	CRIMINAL DIVISION
	)	
Plaintiff,	)	No. CC 93-15998
	)	Sentencing
vs.	)	
	)	
MICHAEL EVANS,	)	Filed by:
	)	
Defendant.	)	Nancy D. Kelly, RPR-CM
	)	Official Court Reporter
	)	
	)	Hearing Date:
	)	
	)	April 6, 1995
	)	
	)	Before:
	)	HONORABLE
	)	DAVID S. CERCONE
	)	
	)	COUNSEL OF RECORD:
	)	
	)	<u>For the Commonwealth:</u>
	)	Office of the District
	)	Attorney:
	)	DEBRA BARNISIN, ESQUIRE
	)	303 County Courthouse
	)	Pittsburgh, PA 15219
	)	
	)	<u>For the Defendant:</u>
	)	
	)	VERDELL DEAN, ESQUIRE
	)	Suite 1609 Allegheny
	)	Building
	)	Pittsburgh, PA 15219

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## I N D E X

- - -

WITNESS:PAGE:MICHAEL EVANS

Direct Examination by Ms. Dean

6

PAULA EVANS

Direct Examination by Ms. Dean

16

THERESA BAKER

Direct Examination by Ms. Dean

18

Cross-Examination by Ms. Barnisin

20

VALERIE ARNOLD

Direct Examination by Ms. Dean

21

- - -

1 P-R-O-C-E-E-D-I-N-G-S

2 - - -

3 THE CLERK: Now is the time set  
4 for the sentencing of Michael Evans.

5 - - -

6 (Whereupon, all witnesses were  
7 duly sworn.)

8 - - -

9 THE COURT: Before the imposition  
10 of sentence in the case of Michael  
11 Pernell Evans, the Court will afford the  
12 defense, including the defendant himself  
13 an opportunity to make appropriate  
14 remarks. Of course, I'll let the  
15 district attorney's office, too, have  
16 some input into sentencing by making any  
17 recommendations or comments.

18 Miss Dean.

19 MS. DEAN: Okay. First of all  
20 Your Honor, I would like to indicate for  
21 the record that Mr. Evans did appear  
22 before Your Honor and he pled guilty to  
23 ten counts of robbery. He pled nolo  
24 contendere to four counts of criminal  
25 conspiracy, count one of the indictment

1 was withdrawn, and at CC 93-16000, the  
2 robbery count was nol prossed.

3 THE COURT: Do I have the file on  
4 that case, the two cases?

5 MS. DEAN: Yes.

6 THE CLERK: That was already nol  
7 prossed.

8 MS. BARNISIN: Your Honor, there  
9 was only one count of robbery in that  
10 case.

11 THE COURT: That whole file was  
12 taken. Okay.

13 MS. DEAN: The agreement with the  
14 assistant district attorney who is  
15 present here today was that they would  
16 not seek any further penalty as to the  
17 criminal conspiracy at 9, 11, 13 and 15.

18 Your Honor, with respect to the  
19 presentence report that has been  
20 submitted to the Court, I have spoken  
21 with Mr. Evans concerning the fact that  
22 there were just a few things that he  
23 really wanted to bring to light  
24 specifically, and that was at the time of  
25 his apprehension -- and he's going to

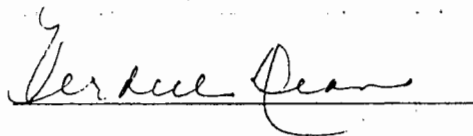
A F F I D A V I T

COMMONWEALTH OF PENNSYLVANIA :  
 : SS :  
COUNTY OF ALLEGHENY :

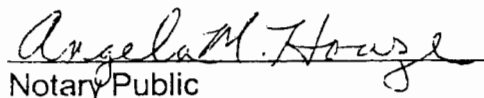
RE: Commonwealth v. Michael Evans

I, Verdell Dean, hereby depose and I state that I represented Michael Evans respecting certain criminal cases in Allegheny County. During my representation, I entered into a plea agreement with the District Attorneys Office wherein, Michael would plead guilty in exchange for the District Attorney's Office refraining from the participation in his sentencing. Subsequent to the sentencing, I learned that there were additional cases for which I was not his attorney. Had I been made aware of these additional cases, I would not have recommended that Michael Evans accept the plea agreement.

Additionally, during my representation of Michael Evans during his sentencing, I was aware that Michael Evans was previously in a mental health institution, that he was taking very strong medication for his mental health and that on that day, he had taken some medication. Mr. Evans initially on his written plea colloquy stated that he had taken medication. After discussion with me, Mr. Evans changed his response to "no" because I told him that if he answers "yes", the Judge may not accept the agreement. After presentation of our case at sentencing, the Court, nonetheless, exceeded what was expected to our extreme disappointment.



SWORN to and subscribed  
before me this 3<sup>rd</sup> day of August, 2002.

  
Notary Public

*My Commission expires 6-2-03*

1 nothing further.

2 THE COURT: Ms. Barnisin.

3 MS. BARNISIN: Your Honor, the  
4 defendant has done nothing with his adult  
5 life but make a career of committing  
6 crimes, abusing drugs, and acting  
7 irresponsible. As you can see from the  
8 records before you, his first criminal  
9 conviction was when he was 23 years old  
10 in 1984, and he has done nothing but  
11 behave outrageously with his life since  
12 that time.

13 He has no regard for the standard  
14 by which society functions, by the laws  
15 of society, by standards of human  
16 decency, and there should be no question  
17 by looking at his prior record that when  
18 he is released from this crime, he would  
19 probably commit more crimes. The  
20 difference now is that previously it was  
21 bad enough when he was just being  
22 convicted of using drugs, drunk driving,  
23 going into people's homes, stealing  
24 things, but now he has a taste for using  
25 a firearm and at this point he can be

1 considered as nothing but an extremely  
2 dangerous criminal which is what his  
3 records shows that he is.

4 It bothered me from the  
5 pre-sentence report reading the summary  
6 that was written up, from speaking with  
7 the defendant, and also with his family.  
8 There are several statements in there  
9 that said that friends are the ones that  
10 got him into crack cocaine. As a  
11 teen-ager he wasn't responsible for an  
12 incident that happened because somebody  
13 spiked his drink with unknown drugs.  
14 That the military was a bad influence on  
15 him. His group of friends were a bad  
16 influence on him. His girlfriend getting  
17 pregnant placed undue stress and  
18 influence on him. Even today, he told  
19 this Court that he tried to get people to  
20 notice that he needed help.

21 Well, where is this  
22 acknowledgement to this Court that at any  
23 point in his life he has taken  
24 responsible for anything that has  
25 happened to him? The whole summary of

1           that presentence is structured as if he  
2           feels that he is a victim of other  
3           people. He is a victim of society, and I  
4           will ask this Court today to hold the  
5           defendant responsible for what he has  
6           failed to take responsibility for.

7                     I would like to recall for you  
8           without going through each of the crimes,  
9           there were numerous victims involved in  
10          these crimes, and the one day that  
11          particularly sticks out for me is the  
12          December 5 incident from 1993. The  
13          defendant stated to the presentence  
14          investigator that he was so frightened  
15          when he committed those crimes that he  
16          urinated, he wet his pants. And yet if  
17          that happened at 8:00 in the morning when  
18          he went in with a shotgun to the Eat N  
19          Park, and he shot into the computer and  
20          shot into the cash register and people  
21          were so frightened for their lives they  
22          ran into a freezer and hid, they were  
23          cowering under tables, cowering under a  
24          table, hiding behind booths, and if he  
25          was so frightened, how could he have gone



1 back at 2:00 and committed another armed  
2 robbery where he leveled a shot gun at  
3 another clerk and cocked it? He put a  
4 round into the chamber while he was  
5 holding this gun, leveled it at this  
6 victim. If he was scared enough to wet  
7 his pants, imagine the fear of the  
8 victims in those cases.

9 I would ask the Court to consider  
10 his extensive prior record, before even  
11 committing these crimes which was at 16,  
12 and I would ask the Court to consider the  
13 trauma and the fear that each of these  
14 victims underwent as they were the  
15 victims of this defendant's actions.

16 I would ask you to hold him  
17 accountable. I would ask you to give him  
18 a very extensive jail sentence followed  
19 by an extensive period of parole and  
20 probation.

21 MS. DEAN: Your Honor, just  
22 briefly, I don't think that Mr. Evans  
23 stood before you and indicated that he  
24 wasn't responsible for these crimes.

25 Are you responsible for these

1 Q Michael, what happened when you were released?

2 Did you start using drugs?

3 A Not initially, no. EXHIBIT (5)

4 Q Tell the Judge what you did.

5 A Well, upon my release I reported to the East  
6 Liberty branch of probation, parole office. I  
7 asked them did they think I need further  
8 evaluation for drug abuse. They deemed not. They  
9 told me to go ahead and work and continue with my  
10 family life. That's what I did.

11 Q Were you given outpatient?

12 A With YMCA Mon-Yough. Miss Valerie Arnold here, I  
13 was on one-on-one with her.

14 Q Did you attend and did you participate in that?

15 A Yes, I did. I also participated in voluntary NA  
16 groups, but by my work schedule it made it  
17 difficult.

18 Q Where were you working?

19 A Allen Steel Company.

20 Q What were you doing?

21 A I was an overhead crane operator and a laborer.

22 Q How long did you work there?

23 A Off and on, for about two-and-a-half years. Well,  
24 two years.

25 Q You're referring back to when you were in the

1 Community Service?

2 A Yes.

3 Q But you had a problem when you were in the  
4 Community Service Center?

5 A Yes.

6 Q What kind of problem?

7 A Drinking.

8 Q Any drug use?

9 A There was no drug use, no.

10 Q Were you as a result sent back to the State  
11 Correctional Institution at Rockview?

12 A I was sent back to Western Penitentiary due in  
13 part to what they said was marijuana urinalysis  
14 and alcohol.

15 Q Okay. And you were subsequently paroled; is that  
16 right?

17 A That's correct.

18 Q And that same employer hired you back; is that  
19 correct?

20 A Yes, he did.

21 Q And is it correct that you worked for that  
22 employer approximately three months while you were  
23 out, three to four months?

24 A That is correct.

25 Q And at the time were you living with a Theresa

1 Baker?

2 A Yes, I was.

3 Q And is she here today?

4 A Yes, she is.

5 Q Who is she?

6 A She's sitting right here.

7 Q Who is she?

8 A She's my fiancée.

9 Q Now, the presentence report indicates that you did  
10 not participate or cooperate with the parole  
11 agents when you were out as far as drug therapy  
12 was concerned?

13 A Once I started, once I realized my addiction was  
14 getting the best of me, I tried my best to let the  
15 parties that was involved in my life know, you  
16 know, I tried to let them know that I was having  
17 problems. Wholeheartedly I let them know I was  
18 having problems. My parole agents thought it  
19 would be best I went to detox. I went. I  
20 succeeded in that. I got out and I asked him was  
21 there a program did they have, called a Halfway  
22 Back Program. They thought not. They said for me  
23 to go on and to find a rehabilitation program on  
24 my own, and I did comply with what they asked me  
25 to do. My first place I went to was the V.A.

1 Hospital with the intent of going to stay.

2 Q What happened at the V.A. Hospital?

3 A They turned me down because of some policy that  
4 was eliminated back in '81 or '82 where you have  
5 to have more time than I have in the service to be  
6 eligible to get in.

7 Q And as a result, what happened? Did you get  
8 involved in the current offenses? What happened?  
9 Just tell the Court.

10 A I've tried several other rehabilitation programs,  
11 Your Honor, with the intent to get in. Each time  
12 I applied myself, they gave me a waiting period of  
13 two weeks, and clearly at that point, I wasn't fit  
14 to be on the streets with this much idle time. I  
15 tried to apply myself in college, signed up for  
16 college courses at the north side branch of  
17 Community College. I got with Ms. Arnold and let  
18 her know I was deteriorating, that as the days go  
19 on, I was becoming very weak. I became very  
20 complacent. I tried to do a little baby sitting  
21 with my children and take time out. The drugs had  
22 me so messed up, that I find myself one night  
23 sitting in the living room sweating, craving for  
24 crack cocaine. I thought it would be a good idea  
25 to go outside and take a walk. When I went out, I

1 never came back.

2 Q And what did you do?

3 A Started running.

4 Q Did you commit crimes?

5 A Yes.

6 Q Why?

7 A To supply my habit for crack cocaine.

8 Q Is there anything, Mike, that you would like to  
9 tell Judge Cercone before he sentences you?

10 We're going to call some other witnesses, but  
11 this is your time to address him and say whatever  
12 you have to say.

13 A Your Honor, since the crime, since my  
14 incarceration, and since I've realized that you  
15 are the one person solely in charge of this whole  
16 episode, I sit down over about a hundred times and  
17 try to write you a letter. I thought it would be  
18 in my best interest to send it to you before this  
19 proceedings, but that would have took away as my  
20 attorney said, the impact of what I'm saying and I  
21 don't want to try to come at you with any type of  
22 game because everybody wants to say things to  
23 sound good. I don't want that. I just want you  
24 to know that since my incarceration I have done  
25 everything in my power to reconcile with those